UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/843,816 | 04/30/2001 | Jacob McGuire | 200704487-1 | 9954 |

| 22879          7590          10/01/2009 |
|---|
| HEWLETT-PACKARD COMPANY |
| Intellectual Property Administration |
| 3404 E. Harmony Road |
| Mail Stop 35 |
| FORT COLLINS, CO 80528 |

| EXAMINER |
|---|
| AILES, BENJAMIN A |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2442 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 10/01/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
jessica.l.fusck@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

# BEFORE THE BOARD OF PATENT APPEALS
## AND INTERFERENCES

Application Number: 09/843,816
Filing Date: April 30, 2001
Appellant(s): MCGUIRE, JACOB

_____
Jonathan M. Harris
For Appellant

## EXAMINER'S ANSWER

This is in response to the appeal brief filed 07 August 2009 appealing from the Office

action mailed 04 March 2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

### (8) Evidence Relied Upon

| | | |
|---|---|---|
| 2002/0128815 A1 | Merchant | 9-2002 |
| 6970927 B1 | Stewart | 11-2005 |
| 7246162 B2 | Tindal | 7-2007 |
| 6301252 B1 | Rangachar | 10-2001 |

### (9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

### *Claim Rejections - 35 USC § 103*

1.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.      This application currently names joint inventors.  In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary.  Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

3.      Claims 1-4, 10 and 11 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Merchant et al. (US 2002/0128815 A1), hereinafter referred to as

Merchant, in view of Stewart et al. (US 6,970,927 B1), hereinafter referred to as

Stewart.

4.      Regarding claim 1, Merchant teaches a computer-readable medium comprising a

uniform interface for configuring and managing a plurality of different types of network

devices, comprising:

a library containing generic commands that can be applied to said network

devices (page 2, paragraph 0028, lines 3-10; Merchant teaches storage of device

independent commands and device specific commands.);

a plurality of plug-in modules that can register with said library, each of said

modules operating to convert at least some of said generic commands into device-

specific commands and transmit said device-specific commands to remote individual

devices of a type that are associated with the module (p. 3, para. 0044; Merchant

teaches device-independent modules that translate device related independent

commands into device specific commands.).

Merchant teaches the creation of generic commands (para. 0044) but does not

clearly teach the generic command that "puts a device into its most privileged level

through an established connection to the device."  However, in related art, Stewart

teaches the placing of a device in a most privileged level in a similar environment

wherein devices in a network system are placed in different privilege levels for different

users in the system (col. 3, ll. 54-62).  When a system teaches different privilege levels,

there must be some hierarchy of privilege, and some privilege level must be at the top

of the hierarchy.  One of ordinary skill in the art at the time of the applicant's invention

would have found it obvious to combine the teachings of Merchant with the teachings of

Stewart.  One of ordinary skill would have been motivated to make such a combination

wherein it is taught by Stewart to provide different privilege levels for users within the

device (col. 3, ll. 54-62).

5.      Regarding claim 2, Merchant and Stewart teach the use of a communications

network but do not explicitly detail "plug-in modules transmit each of said commands in

accordance with a transmission protocol specific to the individual devices, respectively"

and further "wherein one of said transmission protocols comprises Telnet".  However,

Official Notice is taken that the use of specific transmission protocols, including Telnet,

was old and well known in the art.  It would have been obvious to one of ordinary skill at

the time of the applicant's invention to utilize a specific transmission protocol, for

example Telnet, in order for network communication to be possible.

6.      Regarding claim 3, Merchant and Stewart teach the use of a communications

network but do not explicitly detail "plug-in modules transmit each of said commands in

accordance with a transmission protocol specific to the individual devices, respectively"

and further "wherein one of said transmission protocols comprises Telnet".  However,

Official Notice is taken that the use of specific transmission protocols, including Telnet,

was old and well known in the art.  It would have been obvious to one of ordinary skill at

the time of the applicant's invention to utilize a specific transmission protocol, for

example Telnet, in order for network communication to be possible.

7.      Regarding claim 4, Merchant and Stewart teach the computer-readable medium

wherein another one of said generic commands establishes a connection to a network

device through which configuration commands can be sent and information can be

retrieved (Merchant, p. 2, para. 29 and para. 31; Merchant teaches the sending of

configuration signals and the querying for configuration information.).

8.      Regarding claim 10, Merchant and Stewart teach the computer-readable medium

wherein said library is responsive to the receipt of a command for a given device to

determine the module that corresponds to said given device and provide the received

command to said module (Merchant, p. 3, para. 0044).

9.      Regarding claim 11, Merchant and Stewart teach the computer-readable medium

wherein said modules convert responses received from the individual devices with

which they are associated into a generic format for presentation to said library

(Merchant, p. 4, para. 0046).

10.     Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Merchant and Stewart and further in view of Tindal (US 7,246,162).

11.     Regarding claim 5, Merchant and Stewart teach the computer-readable medium

comprising a uniform interface as claimed in claim 1 but do not clearly recite one of the

generic commands retrieving the current configuration of a network device by executing

appropriate commands on the device.  Tindal teaches the retrieval of configurations

using messaging for configuring and reconfiguring purposes (col. 4, line 59 - col. 5, line

8).  One of ordinary skill in the art at the time of the applicant's invention would have

found it obvious to combine the teachings of Tindal with Merchant and Stewart.  One of

ordinary skill in the art would have been motivated to make such a combination as

suggested by Merchant  to query and receive current configurations of devices (p. 2,

para. 0031) and Tindal to configure and reconfigure devices (col. 5, ll. 1-5).

12.     Regarding claim 8, Merchant and Stewart teach the computer-readable medium

comprising a uniform interface as claimed in claim 1 including the creation of generic

commands (para. 0044) but does not clearly teach the step "wherein one of said generic

commands gives a device a complete configuration based on information from a stored

configuration file".  However, in related art, Tindal teaches the retrieval of configurations

using messaging for configuring and reconfiguring purposes (col. 4, line 59 - col. 5, line

8).  One of ordinary skill in the art at the time of the applicant's invention would have

found it obvious to combine the teachings of Tindal with Merchant and Stewart.  One of

ordinary skill in the art would have been motivated to make such a combination as

suggested by Merchant  to query and receive current configurations of devices (p. 2,

para. 0031) and Tindal to configure and reconfigure devices (col. 5, ll. 1-5).

13.     Claims 6, 7 and 23 are rejected under 35 USC 103(a) as being unpatentable

over Merchant and Stewart in view of Rangachar (US 6,301,252 B1).

14.     Regarding claim 6, Merchant and Stewart teach the computer-readable medium

comprising a uniform interface claimed in claim 1 including the querying of configuration

information with respect to the network device that is queried (Merchant, para. 0032) but

does not clearly teach the step to "render configuration information suitable for storage

and saves it to a local file system".  However, in related art, Rangachar teaches in a

similar environment wherein generic commands are utilized and translated into a device

specific command a generic command can be created which retrieves the configuration information with respect to a network device and this information is stored in a centralized control and management storage wherein the centralized control and management location stores the "state" of the network device (col. 7, ll. 5-22). One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Merchant and Stewart with the teachings of Rangachar. One of ordinary skill would have been motivated to make such a combination wherein it is taught by Rangachar to within a system wherein generic commands are utilized, it is beneficial to further enhance network reliability and interoperability of switches and have further control over network switches (col. 4, ll. 18-24).

15.      Regarding claim 7, Merchant and Stewart teach the system as claimed in claim 1 including the creation of generic commands (Stewart, para. 0044) but do not clearly teach the step to "put a device into a mode where it can accept configuration commands through an established connection at an enabled level". However, in related art, Rangachar teaches in a similar environment wherein generic commands are utilized and translated into a device specific command a generic command can be created which can control and make modifications to a network switch. Rangachar teaches the controlling and management of network switches (col. 4, ll. 58-62. One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Merchant and Stewart with the teachings of Rangachar. One of ordinary skill would have been motivated to make such a combination wherein it is

taught by Rangachar to within a system wherein generic commands are utilized, it is
beneficial to further enhance network reliability and interoperability of switches and have
further control over network switches (col. 4, ll. 18-24).

16.    Regarding claim 23, Merchant teaches the utilization of network devices but does
not explicitly teach the network devices being from a group consisting of switches,
firewalls, routers and load balancers.  However, in related art, Rangachar teaches the
management of network switches (col. 4, ll. 5-11).  One of ordinary skill in the art would
have found it obvious to utilize the teachings of Merchant for the control of different
network devices like switches, firewalls, routers and load balancers.  One of ordinary
skill would have been motivated because these are common network devices as taught
by Rangachar.

17.    Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Merchant in view of Tindal (US 7,246,162).

18.    Regarding claim 12, Merchant discloses a method for configuring and managing
a plurality of different types of network devices, comprising:

      establishing a library of generic commands that can be applied to said network
devices (page 2, paragraph 0028, lines 3-10; Merchant teaches storage of device
independent commands and device specific commands.);

      registering a plurality of plug-in modules with said library, each of said modules
operating to convert at least some of said generic commands into device-specific
commands (p. 3, para. 0044; Merchant teaches device-independent modules that
translate device related independent commands into device specific commands.);

receiving commands for a given device that is remote from said modules (p. 3, para. 0044; Merchant teaches device-independent modules that translate device related independent commands into device specific commands.);

determining the module that corresponds to said given device and forwarding the received commands to said module (p. 3, para. 0044; Merchant teaches device-independent modules that translate device related independent commands into device specific commands.);

transmitting said device-specific commands from said module to said given device (p. 3, para. 0044; Merchant teaches device-independent modules that translate device related independent commands into device specific commands.); and

said module converting a response received from said given device into a generic format for presentation to said library (p. 4, para. 0046).

Merchant teaches the method as cited above but does not clearly recite "one of said generic commands giving a device a complete configuration based on information from a stored configuration file." Tindal teaches on this aspect wherein Tindal teaches the retrieval of configurations using messaging for configuring and reconfiguring purposes (col. 4, line 59 - col. 5, line 8). In an embodiment presented by Tindal, a central repository is maintained by a network manager unit. Through messaging via a GUI, a configuration record (or reconfiguration record) can be accessed that is associated with any type or brand of network device. One of ordinary skill in the art at the time of the applicant's invention would have found it obvious to combine the teachings of Tindal with Merchant. One of ordinary skill in the art would have been

motivated to make such a combination as suggested by Merchant to query and receive

current configurations of devices (p. 2, para. 0031) and Tindal to configure and

reconfigure devices (col. 5, ll. 1-5).

19.     Regarding claim 13, Merchant and Tindal teach the use of a communications

network but does not explicitly detail "plug-in modules transmit each of said commands

in accordance with a transmission protocol specific to the individual devices,

respectively" and further "wherein one of said transmission protocols comprises Telnet".

However, Official Notice is taken that the use of specific transmission protocols,

including Telnet, was old and well known in the art.  It would have been obvious to one

of ordinary skill at the time of the applicant's invention to utilize a specific transmission

protocol, for example Telnet, in order for network communication to be possible.

20.     Regarding claim 14, Merchant and Tindal teach the use of a communications

network but does not explicitly detail "plug-in modules transmit each of said commands

in accordance with a transmission protocol specific to the individual devices,

respectively" and further "wherein one of said transmission protocols comprises Telnet".

However, Official Notice is taken that the use of specific transmission protocols,

including Telnet, was old and well known in the art.  It would have been obvious to one

of ordinary skill at the time of the applicant's invention to utilize a specific transmission

protocol, for example Telnet, in order for network communication to be possible.

21.     Regarding claim 15, Merchant and Tindal teach the system wherein one of said

generic commands establishes a connection to a network device through which

configuration commands can be sent and information can be retrieved (Merchant, p. 2,

para. 29 and para. 31; Merchant teaches the sending of configuration signals and the
querying for configuration information.).

22.     Regarding claim 16, Merchant teaches the system as claimed in claim 1 but does
not clearly recite one of the generic commands retrieving the current configuration of a
network device by executing appropriate commands on the device.  Tindal teaches the
retrieval of configurations using messaging for configuring and reconfiguring purposes
(col. 4, line 59 - col. 5, line 8).  One of ordinary skill in the art at the time of the
applicant's invention would have found it obvious to combine the teachings of Tindal
with Merchant.  One of ordinary skill in the art would have been motivated to make such
a combination as suggested by Merchant  to query and receive current configurations of
devices (p. 2, para. 0031) and Tindal to configure and reconfigure devices (col. 5, ll. 1-
5).

23.     Claims 17, 18 and 22 are rejected under 35 USC 103(a) as being unpatentable
over Merchant and Tindal in view of Rangachar (US 6,301,252 B1).

24.     Regarding claim 17, Merchant and Tindal teach the method as claimed in claim
12 including the querying of configuration information with respect to the network device
that is queried (Merchant, para. 0032) but do not clearly teach the step to "render
configuration information suitable for storage and saves it to a local file system".
However, in related art, Rangachar teaches in a similar environment wherein generic
commands are utilized and translated into a device specific command a generic
command can be created which retrieves the configuration information with respect to a
network device and this information is stored in a centralized control and management

storage wherein the centralized control and management location stores the "state" of
the network device (col. 7, ll. 5-22). One of ordinary skill in the art at the time of the
applicant's invention would have found it obvious to combine the teachings of Merchant
with the teachings of Rangachar. One of ordinary skill would have been motivated to
make such a combination wherein it is taught by Rangachar to within a system wherein
generic commands are utilized, it is beneficial to further enhance network reliability and
interoperability of switches and have further control over network switches (col. 4, ll. 18-
24).

25.      Regarding claim 18, Merchant and Tindal teach the method as claimed in claim
12 including the creation of generic commands (Merchant, para. 0044) but do not
clearly teach the step to "put a device into a mode where it can accept configuration
commands through an established connection at an enabled level". However, in related
art, Rangachar teaches in a similar environment wherein generic commands are utilized
and translated into a device specific command a generic command can be created
which can control and make modifications to a network switch. Rangachar teaches the
controlling and management of network switches (col. 4, ll. 58-62. One of ordinary skill
in the art at the time of the applicant's invention would have found it obvious to combine
the teachings of Merchant and Tindal with the teachings of Rangachar. One of ordinary
skill would have been motivated to make such a combination wherein it is taught by
Rangachar to within a system wherein generic commands are utilized, it is beneficial to
further enhance network reliability and interoperability of switches and have further
control over network switches (col. 4, ll. 18-24).

26.     Regarding claim 22, Merchant teaches the utilization of network devices but does

not explicitly teach the network devices being from a group consisting of switches,

firewalls, routers and load balancers.  However, in related art, Rangachar teaches the

management of network switches (col. 4, ll. 5-11).  One of ordinary skill in the art would

have found it obvious to utilize the teachings of Merchant for the control of different

network devices like switches, firewalls, routers and load balancers.  One of ordinary

skill would have been motivated because these are common network devices  as taught

by Rangachar.

27.     Claim 20 is rejected under 35 USC 103(a) as being unpatentable over Merchant

and Tindal in view of Stewart.

        Regarding claim 20, Merchant teaches the creation of generic commands (para.

0044) but does not clearly teach the generic command that "puts a device into its most

privileged level through an established connection to the device."  However, in related

art, Stewart teaches the placing of a device in a most privileged level in a similar

environment wherein devices in a network system are placed in different privilege levels

for different users in the system (col. 4, ll. 5-62).  One of ordinary skill in the art at the

time of the applicant's invention would have found it obvious to combine the teachings

of Merchant with the teachings of Stewart.  One of ordinary skill would have been

motivated to make such a combination wherein it is taught by Stewart to provide

different privilege levels for users within the device (col. 4, ll. 54-62).

        **(10) Response to Argument**

**Claims 1-4 and 10-11**

With respect to the rejection of claims 1-4, 10 and 11 as being obvious under 35

USC 103(a) in view of Merchant (US 2002/0128815) and Stewart (US 6,970,927), the

appellant argues, specifically with respect to independent claim 1 that (a) the cited art

does not teach "wherein at least one of said generic commands puts a device into its

most privileged level through an established connection to the device."

(a) With respect to argument (a), the examiner respectfully disagrees. With

respect to the combination set forth, the examiner submits that Merchant clearly

teaches the aspects of performing the generic command messaging on page 2,

paragraph 0028 and providing access to network devices on page 3, para. 0044.  The

incorporation of the Stewart reference was performed to show evidence in the prior art

that the enabling of giving a user a "most privileged level" to a network device is

deemed obvious and well-known in the art. As taught by Stewart in column 3, lines 54-

62, user access and privilege levels to network resources (i.e. devices) can be set by

appropriate network providers. Therefore, the combination as set forth is found to teach

the appellant's limitation of "wherein at least one of said generic commands puts a

device into its most privileged level through an established connection to the device."

In response to appellant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references.  See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986). Appellant argues that "the Examiner aims to combine two references to render

obvious a limitation that neither one of the references teaches alone" (see p. 13 of 22 of

Appeal Brief). The examiner submits that the rejection set forth with respect to claim 1 does not rely upon just either reference "alone" to teach the limitation being argued but instead renders the claim limitation obvious in view of the combination of the prior art. The examiner submits that the combination set forth is deemed proper and meets the requirement of the claim limitation.

**Claims 12-16**

28.     With respect to the rejection of claims 12-16 as being obvious under 35 U.S.C. 103(a) in view of Merchant and Tindal (US 7,246,162), appellant argues, specifically with respect to independent claim 12, (b) that the cited prior art does not teach "said module converting a response received from said given device into a generic format for presentation to said library."

29.     (b) With respect to argument (b), the examiner respectfully disagrees. The examiner maintains and submits that Merchant teaches on this aspect wherein Merchant teaches the utilization of converting a response into a generic format. Merchant teaches, on page 4, para. 0045, the utilization of new data storage devices which may be added to the data storage system taught by Merchant. The new device added presents new device-specific modules which are loaded. The loaded modules are converted to device/host independent commands and remain usable for the new devices. The usability of the system with new data storage devices taught by Merchant therefore teaches on the aspect of "said module converting a response received from said given device into a generic format for presentation to said library."

     **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Benjamin A. Ailes
/BAA/
Examiner, Art Unit 2442


/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2442

Conferees:

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2442


/Douglas B Blair/

Primary Examiner, Art Unit 2442